

Chapter 14.32

NONCONFORMING SITUATIONS

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14.32.010 Continuation of Nonconforming Situations and Completion of Nonconforming Projects.

Nonconforming situations that were otherwise lawful on the effective date of this chapter may be continued subject to the restrictions and qualifications of this chapter.

14.32.020 Nonconforming Lots.

- (a) This section applies only to legal nonconforming lots which have no substantial structures upon it.
- (b) A lot that is nonconforming by virtue of not meeting the minimum lot area required for the zone in which it is located may be used the same as if it were conforming, except that any use that requires a greater lot size than the established minimum lot size for a particular zone (e.g., a two-family residence) is prohibited.

14.32.030 Extension or Enlargement of Nonconforming Situations.

- (a) No person may engage in any activity that causes an increase in the extent of a nonconformity, except as specified below. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:
  - (1) An increase in the total amount of space devoted to a nonconforming use, or
  - (2) Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, parking or density requirements.
- (b) A legal nonconforming use may be extended throughout any portion of a completed building that was manifestly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building.
- (c) A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a sand pit) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if 10 percent or more of the earth products had already been removed on the date on which it became nonconforming and where the proposed expansion conforms to all applicable Federal, State, and local regulations concerning the use.
- (d) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other subsections of this section occur.

- (e) Any structure used for single-family residential purposes and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements.
- (f) Whenever: (1) there exists a lot with one or more structures on it, and (2) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (3) the additional parking or loading spaces required by Chapter 14.72 cannot be satisfied because there is not sufficient area available on the lot, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land. (Ord. 676, Sec. 21, 2003; Ord. 468, 1995)

14.32.040 Repair, Maintenance and Reconstruction.

- (a) Minor repairs to and routine maintenance of property where nonconforming situations exist are allowed. Major renovation and repairs, i.e., work valued at more than 25 percent of the appraised valuation of the structure, may be done only in accordance with required permits issued pursuant to this section.
- (b) If a structure housing a nonconforming use is damaged by fire, accident or natural disaster to an extent that the value of repair or replacement would exceed 50 percent of the appraised valuation of the structure prior to the fire, accident or natural disaster, then the nonconforming use shall not be re-established. This subsection does not apply to structures used for single-family residential purposes, which structures may be reconstructed pursuant to a building permit.

- (c) For purposes of subsections (a) and (b) of this section:
  - (1) The “value” of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.
  - (2) No person may seek to avoid the intent of subsections (a) or (b) of this section by doing such work incrementally.
  - (3) The “appraised valuation” shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the last valuation, or the valuation determined by a professionally recognized property appraiser.
- (d) The Planning Director shall issue a permit authorized by subsection (a) of this section if it is found that, in completing the renovation, repair or replacement work:
  - (1) This proposal meets the requirements of this chapter; and
  - (2) The permittee will comply to the extent reasonably possible with all provisions of this title applicable to the proposal.

Compliance with a requirement of this title is not reasonably possible if it cannot be achieved without adding land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. That an applicant is facing financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. (Ord. 811, Sec. 23, 2010)

14.32.050 Change in Use of Property Where a Nonconforming Situation Exists.

- (a) A change in use of property (where a nonconforming situation exists) that requires a new Planning Director approval, administrative conditional use, or conditional use permit in accordance with Section 14.16C.030 may not

be made except in accordance with subsections (b) through (d) of this section.

- (b) If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this title applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this title is achieved, the property may not revert to its nonconforming status.
- (c) If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this title applicable to that use cannot reasonably be complied with, then the change is permissible if the permitting entity issues a permit authorizing the change. This permit may be issued if it is found that:
  - (1) The proposal meets the requirements of this chapter; and
  - (2) All of the applicable requirements of this title that can reasonably be complied with will be complied with. Compliance with a requirement of this title is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. That an applicant is facing financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. In no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created.
- (d) No change in use to another use that is not permissible in the district in which it is located shall be allowed. (Ord. 811, Sec. 24, 2010)

14.32.060 Abandonment and Discontinuance of Nonconforming Uses.

- (a) When a nonconforming use is discontinued for a consecutive period of 180 days, subsequent uses on the property must be permitted in the zone in which the property is located. (Ord. 676, Sec. 21, 2003; Ord. 590, 1998; Ord. 468, 1995)

